

ENTERED

April 27, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERTO CALDERON,

Plaintiff,

VS.

TAMMY KNEEVER,

Defendant.

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CIVIL ACTION NO. 4:16-CV-1130

MEMORANDUM AND ORDER

Roberto Calderon, an inmate incarcerated at the Galveston County Jail, has filed a prisoner civil rights complaint. Calderon has not paid the filing fee. This action will be dismissed pursuant to the provisions of 28 U.S.C. § 1915(g).

Barring a show of imminent danger, under the Prison Litigation Reform Act of 1995, a prisoner may not file an action without prepayment of the filing fee if he has, on three or more prior occasions, filed a prisoner action in federal district court or an appeal in a federal court of appeals which was dismissed as frivolous or malicious. 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). Calderon accumulated at least three such dismissals before filing the pending complaint, and is no longer allowed to proceed *in forma pauperis* pursuant to the provisions of section 1915(g). See *Calderon v. Jerman*, No. 5:14cv854 (W.D. Tex. Dec. 31, 2014); *Calderon v. City of Bandera*, No. 5:14cv881 (W.D. Tex. Dec. 1, 2014); *Calderon v. Ables*, No. 5:14cv427 (W.D. Tex. May 14, 2014). Calderon's allegations do not plead any facts showing that he is in any immediate danger which would warrant waiver of the fee requirement. See *Choyce v. Dominguez*, 160 F.3d 1068, 1071 (5th Cir. 1998); *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

In light of the pleadings and his litigation history, Calderon has failed to show that he is eligible to proceed as a pauper and has also failed to assert a claim that has any legal basis. Consequently, this action should be dismissed pursuant to 28 U.S.C. § 1915(g) and 28 U.S.C. § 1915(e). This dismissal shall count as a strike under section 1915(g).

The Court ORDERS that the Prisoner Civil Rights Complaint (Docket Entry No. 1), filed by Galveston County Jail inmate Roberto Calderon, is DISMISSED. 28 U.S.C. § 1915(g); 28 U.S.C. § 1915(e).

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the parties.

SIGNED on this 27th day of April, 2016.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge